

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In the Application of:)
Steven E. Hobbs et al.)
Title: **SYSTEM AND METHOD FOR**) Group Art Unit: 1723
PERFORMING MULTIPLE)
PARALLEL CHROMATOGRAPHIC) Examiner: THERKORN, Ernest G.
SEPARATIONS)
Serial Number: 10/696,354) Attorney Docket: 132 Div 2-US
Filed: October 28, 2003)

**REQUEST FOR EXPEDITED CONSIDERATION OF INFORMATION DISCLOSURE
STATEMENT PREVIOUSLY AND PROPERLY FILED UNDER 37 C.F.R. § 1.97**

VIA FAXSIMILE (703)872-9306
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

(14 Pages Total)

Sir:

I. INTRODUCTION

A Notice of Allowance was mailed in the above-referenced application on March 9, 2005 and states that the Issue Fee and Publication Fee must be paid within three months of the mailing date, i.e., by June 9, 2005. This deadline is not extendible.

Applicants timely filed multiple Information Disclosure Statements (IDSs) in the present application, but one IDS has not been considered by the Examiner. Specifically, an IDS citing a single U.S. patent was filed electronically on February 3, 2005 but was apparently never received by the Examiner, and to Applicants' knowledge the reference cited therein remains unconsidered.

CERTIFICATE OF FAXSIMILE
(37 C.F.R. § 1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being transmitted on the date shown below to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, central facsimile number (703) 872-9306.

April 4, 2005
Date of Transmittal

Roger Gendron
Name of Person Transmitting Paper

Roger Gendron
Signature of Person Transmitting Paper

Applicants hereby request that the Examiner consider the IDS previously filed on February 3, 2005 on an expedited basis.

II. FEE(S) ASSOCIATED WITH THIS REQUEST

It is believed that no fee associated with this Request should be owed; however, if Applicants are incorrect in this regard, then please treat this as authorization to debit Deposit Account No. 502454 for any necessary fee(s) associated herewith.

III. DETAILED EXPLANATION OF REQUEST

A. HISTORY

The above-referenced application was filed on October 28, 2003. Applicants filed four different Information Disclosure Statements on January 13, 2004, January 22, 2004, December 22, 2004, and February 3, 2005, respectively. All of these four IDSs were timely filed prior to any official action by the Examiner. A copy of the fourth IDS ("the unconsidered IDS"), which was filed electronically and is the subject of the present request, is attached hereto as Exhibit A. Proof of the filing of the unconsidered IDS in the form of a USPTO Acknowledgement Receipt is attached hereto as Exhibit B.

The first Official Action in the present application – namely, a Notice of Allowance – was mailed on March 9, 2005 (copy of Notice of Allowance is attached hereto as Exhibit C).

The undersigned telephoned Examiner Therkorn in Art Unit 1723 ("the Examiner") on April 1, 2005 to discuss the unconsidered IDS. During that conversation, the Examiner confirmed that he had not received the unconsidered IDS and that the unconsidered IDS was not available to him in the USPTO's computer system ("E-DAN"). When the undersigned explained that the unconsidered IDS was available in the private Patent Application Retrieval System ("PAIR") and offered to send proof of the same to the Examiner via facsimile, the Examiner encouraged the undersigned to send an unofficial facsimile to the Examiner's

personal facsimile number. That facsimile contained not only copies of the above-referenced IDS and Acknowledgement Receipt, but also a first PAIR screen printout showing that an IDS was filed on February 3, 2005 (attached hereto as Exhibit D) and a second PAIR screen printout from the "E-Patent Reference" dialog box for the present application showing that the unconsidered IDS contained U.S. Patent No. 6,749,814 (screen printout attached hereto as Exhibit E). After considering the facsimile in a subsequent conversation on April 4, 2005, the Examiner suggested that the undersigned re-submit the unconsidered IDS via the USPTO's official facsimile number at (703) 872-9306 to obtain consideration of the reference cited therein. The present request is responsive to the Examiner's suggestion.

B. APPLICABLE LAW

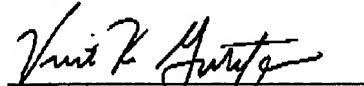
It is well established that "each individual associated with the filing and prosecution of a patent application has a duty to disclose to the Office all information known to that individual to be material to patentability." 37 C.F.R. § 1.56. Patent applicants are presumed to submit information for consideration by the Office in applications rather than making and relying on their own determinations of materiality. MPEP 2001.04. An incentive remains to submit information to the Office because it will result in a strengthened patent and will avoid later questions of materiality and intent to deceive. *Id.*

When a patent applicant timely submits an information disclosure statement in a pending application, the Office is obligated to consider it. See 37 C.F.R. § 1.97(b) ("An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods: ... (3) Before the mailing of a first Office action on the merits.") (Emphasis added.) In the present application, the fourth IDS (i.e., the unconsidered IDS) was timely filed by Applicants before the mailing of the first Office action on the merits (i.e., the Notice of Allowance), but the fourth IDS has not been considered.

IV. CONCLUSION

Based on the foregoing, Applicants respectfully submit that the unconsidered IDS and document cited therein (namely, U.S. Patent No. 6,749,814) should be considered by the Examiner. Applicants respectfully request that evidence of the Examiner's consideration of the cited reference (e.g., evidence in the form of initialed forms PTO-1449 or the equivalent) be mailed to Applicants by April 20, 2005, but in no case any later than May 26, 2005—two weeks before the non-extendible Issue Fee and Publication Fee payment deadline of June 9, 2005.

Respectfully submitted,



Vincent K. Gustafson
Reg. No. 46,182

Dated: April 4, 2005

USPTO Customer No.: 32763

Enclosures:

- Exhibit A: Copy of fourth IDS filed electronically on February 3, 2005
- Exhibit B: Copy of USPTO Acknowledgement Receipt for IDS filed on February 3, 2005
- Exhibit C: Copy of Notice of Allowance mailed on March 9, 2005
- Exhibit D: Copy of a screen printout from PAIR showing that an IDS was filed on February 3, 2005
- Exhibit E: Copy of a screen printout from the PAIR "E-Patent Reference" dialog box showing that the unconsidered IDS contained U.S. Patent No. 6,749,814